

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FIRST TRADE UNION BANK,

Plaintiff,

- against -

FORMERLY 8<sup>TH</sup> STREET LLC, *et al.*,

Defendants.  
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**MAUSKOPF, United States District Judge.**

**MEMORANDUM & ORDER**

10-CV-5284 (RRM)(RML)

On February 18, 2011, the plaintiff in this case moved for default judgment under Federal Rules of Civil Procedure 55(b)(2) and 54(b). (Doc. No. 24.) By Order entered February 18, 2011, this Court referred that motion to the assigned Magistrate Judge, the Honorable Robert M. Levy, for a Report and Recommendation. On April 14, 2011, Judge Levy conducted a damages hearing, and on April 28, 2011, plaintiff supplemented its default submission. On August 5, 2011, Judge Levy issued a Report and Recommendation (the “R&R”) (Doc. No. 30) recommending that the Court grant plaintiff’s motion for default judgment against defendants Formerly 8<sup>th</sup> Street LLC, Jerrold Z. Gorelick, Fairview Housing Group, Inc., Phoenix Sheet Steel Corp., Darius Masonry, Inc., and A to Z Steel, LLC, and that, in the event any of the defaulting defendants claims to have an interest or lien upon the mortgage property, that interest or lien be deemed subject and subordinate to the lien of plaintiff’s Mortgage. He also recommended that the Court enter judgment in favor of the plaintiff against defendants awarding plaintiff \$945,695.01, plus interest, as follows: (a) \$802,058.74 in unpaid principal, (b) \$62,159.08 in accrued interest, (c) \$56,678.20 in default interest, (d) \$6,472.51 in late charges, and (e) \$18.326.48 for forced place insurance, with leave to request additional relief, as against defendants Formerly 8th Street and Gorelick. Last, Judge Levy recommended that plaintiff be

awarded additional interest and insurance costs accruing from April 11, 2011 through the date of entry of judgment, and that plaintiff be given leave to seek damages under the guaranty of completion, as well as attorney's fees and costs. Judge Levy reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due August 19, 2011. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R [Doc. No. 30] in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

Accordingly, plaintiff's motion for default judgment (Doc. No. 24) as to defendants Formerly 8<sup>th</sup> Street LLC, Jerrold Z. Gorelick, Fairview Housing Group, Inc., Phoenix Sheet Steel Corp., Darius Masonry, Inc., and A to Z Steel, LLC is GRANTED. Judgment shall enter in favor in favor of the plaintiff against defendants Formerly 8th Street and Gorelick as follows: (a) \$802,058.74 in unpaid principal, (b) \$62,159.08 in accrued interest, (c) \$56,678.20 in default interest, (d) \$6,472,51 in late charges, and (e) \$18,326.48 for forced place insurance, with leave to request additional relief. Plaintiff shall be awarded additional interest and insurance costs accruing from April 11, 2011 through the date of entry of judgment, and is further given leave to seek damages under the guaranty of completion, as well as attorney's fees and costs. In addition, in the event any of the defaulting defendants claims to have an interest or lien upon the mortgage property, that interest or lien be deemed subject and subordinate to the lien of plaintiff's Mortgage.

As to the remaining defendants/cross- or counter-claimants, this matter is re-committed to the assigned Magistrate Judge for supervision of any settlement discussions, and all remaining pre-trial issues consistent with this Memorandum and Order.

SO ORDERED.

Dated: Brooklyn, New York  
August 31, 2011

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
United States District Judge